

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

v.

ROBERT T. BROCKMAN

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Criminal No. 4:21-cr-00009

DECLARATION OF JAMES P. LOONAM

I, James P. Loonam, declare as follows:

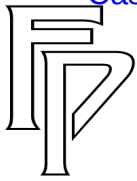
1. I am a member of the bar of the State of New York and various federal courts. On January 8, 2021, I was admitted *pro hac vice* to appear in the United States District Court for the Southern District of Texas. Dkt. No. 7. I am a partner of the law firm Jones Day and counsel for the defendant Robert T. Brockman. I make this Declaration in support of Defendant Robert T. Brockman's Notice of Supplemental Information Relevant to the Competency Determination.
2. Attached hereto as Exhibit 1 is Dr. Thomas Wisniewski's neurological assessment of Mr. Brockman, dated April 12, 2022.
3. Attached hereto as Exhibit 2 is a copy of medical records from Dr. James L. Pool's examination of Mr. Brockman on February 15, 2022 (**FILED UNDER SEAL**).
4. Attached hereto as Exhibit 3 is a copy of the medical records from Dr. Eugene C. Lai's examination of Mr. Brockman on March 10, 2022 (**FILED UNDER SEAL**).

I declare under penalty of perjury that the foregoing is true and correct.

Executed in New York, New York on April 13, 2022.

/s/ James P. Loonam
James P. Loonam

EXHIBIT 1



THE FORENSIC PANEL

TEL: 212.535.9286 FAX: 212.535.3259 MICHAEL WELNER, M.D., CHAIRMAN

April 12, 2022

James Loonam, Esq.
Jones Day
250 Vesey Street
New York, NY 10281

Re: U.S. v. Robert T. Brockman

Dear Mr. Loonam,

I am writing to update my evaluation of Mr. Brockman based on recent developments concerning Mr. Brockman's medical condition. As you are aware, I previously diagnosed Mr. Brockman with dementia, most likely due to Parkinson's disease, but also with possible likely co-occurrence of Alzheimer's disease. As I previously indicated, Mr. Brockman's dementia is progressive and irreversible. Since my report filed on October 29, 2021 and court testimony on November 17, 2021, Mr. Brockman contracted COVID-19 in December. He was then hospitalized in January 2022 with a diagnosis of toxic metabolic encephalopathy (TME) and acute prostatitis. This was associated with a worsening of his cognitive status during his admission and thereafter. As discussed below, I believe these conditions have also significantly worsened Mr. Brockman's cognitive decline.¹

Toxic metabolic encephalopathy (TME) is a condition of acute global cerebral dysfunction manifested by altered consciousness, confusion, and behavior changes independent of a primary structural brain disease or direct central nervous system (CNS) infection. Mr. Brockman was diagnosed with TME during his January 2022 hospitalization, shortly after contracting COVID-19. TME is more common with COVID-19 among older patients and is associated with ~24% higher mortality². A pre-existing dementia increases the risk of TME nine-fold³.

Research has shown that among aged COVID-19 patients who suffered TME, plasma biomarkers of neurodegeneration, neuronal death, neuroinflammation and also Alzheimer's

¹ In advance of writing this letter, I interviewed Mr. Brockman on April 1, 2022 via a video teleconference. During that video teleconference I received collateral input from Mr. Brockman's caregiver, Frank Gutierrez. I also reviewed recent records from Baylor College of Medicine, including records from Mr. Brockman's general practitioner, Dr. James Pool, and from his treating neurologist Dr. Eugene Lai.

² Frontera JA, et al. **Toxic Metabolic Encephalopathy in Hospitalized Patients with COVID-19.** *Neurocrit Care.* 2021;35(3):693-706; Frontera JA et al. **A Prospective Study of Neurologic Disorders in Hospitalized Patients With COVID-19 in New York City.** *Neurology.* 2021;96(4):e575-e86; Frontera JA et al. **Prevalence and predictors of prolonged cognitive and psychological symptoms following COVID-19 in the United States.** *Front Aging Neurosci.* 2021(13):690383.

³ Frontera JA, et al. **Toxic Metabolic Encephalopathy in Hospitalized Patients with COVID-19.** *Neurocrit Care.* 2021;35(3):693-706.

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disease are significantly elevated⁴. Hence, COVID-19 can accelerate pathological pathways in the brain that drive cognitive dysfunction and Alzheimer's disease related pathology. All of these worsen dementia. The fact that SARS-CoV-2, the virus that causes COVID-19, can accelerate the progression of neurodegenerative chronic neurological conditions is also confirmed by recent research⁵. The cognitive dysfunction associated with COVID-19 is persistent as documented in research, including my own, which relies on one year follow up data of COVID-19 patients who were hospitalized⁶.

Mr. Gutierrez, who interacts with Mr. Brockman on a daily basis, indicated to me on April 1 that Mr. Brockman requires help for all activities of daily living. He notes that Mr. Brockman's confusion is worse than when I last interviewed him in October 2021. According to Mr. Gutierrez, Mr. Brockman often doesn't know where he is, even when at home, believing that he's in a facility or a hotel.

During my interview of Mr. Brockman, he did not recognize me from having met with him less than six months earlier, and was not aware of what my role is. He was a poor historian and was not able to provide any information about his current medical problems or any of his medications. His answers were tangential, with gross confabulation in his replies.

Mr. Brockman shows severe impairment of memory and cognition. He is disoriented to both location and time. Moreover, his responses are more vacant and limited; he is not communicating relevantly or with any substance.

The current neurological examination and recent medical history indicate Mr. Brockman's lack of understanding of very simple ideas and concepts. He has no ability to engage in decision-making or future planning.

In summary, it is my opinion that Mr. Brockman's dementia has significantly progressed since my October 2021 assessment. This progression of cognitive dysfunction is partly what is expected over time; however, in this case there was an acceleration of the process due to COVID-19 and a January 2022 hospital admission with TME.

Mr. Brockman's prognosis is poor. There is no expectation that he will recover cognitively. During the period I have followed Mr. Brockman's progress, he has shown deterioration of

⁴ Frontera JA et al. **Comparison of serum neurodegenerative biomarkers among hospitalized COVID-19 patients versus non-COVID subjects with normal cognition, mild cognitive impairment, or Alzheimer's dementia.** *Alzheimers Dement.* 2022;in press.

⁵ Pimentel GA, Guimaraes TG, Silva GD, Scaff M. **Case Report: Neurodegenerative Diseases After Severe Acute Respiratory Syndrome Coronavirus 2 Infection, a Report of Three Cases: Creutzfeldt-Jakob Disease, Rapidly Progressive Alzheimer's Disease, and Frontotemporal Dementia.** *Front Neurol.* 2022;13:731369

⁶ Bauman K, Bell et al. **Trajectories of Neurological Recovery 12 Months after Hospitalization for COVID-19: A Prospective Longitudinal Study.** *Neurology.* 2022;in press

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dementia, which has recently greatly accelerated, likely related to his SARS-CoV-2 infection and preexisting medical conditions.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Tom Wisniewski", followed by a large, stylized loop.

Thomas Wisniewski, M.D.
Director, Pearl I. Barlow Center for Memory Evaluation and Treatment
Director, Alzheimer's Disease Research Center
Director, Division of Cognitive Neurology
Associate Chair for Research, Department of Neurology
Professor of Neurology, Pathology, and Psychiatry, NYU School of Medicine

EXHIBIT 2
(SEALED)

EXHIBIT 3
(SEALED)